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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,883

10/16/2003

Ronald A. Katz

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4127

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EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2614

NOTIFICATION DATE

DELIVERY MODE

10/20/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

efiling@berrypc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,883	<b>Applicant(s)</b> KATZ, RONALD A.	
	<b>Examiner</b> STELLA WOO	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 63-72,75-83,85,86,89-102,104-111 and 113-124 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 63-72,75-83,85,86,89-102,104-111 and 113-124 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/16/2011, 8/15/2011</u> .                                    | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 21, 2011 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 80, 100, 116-124 are rejected under 35 U.S.C. 102(e) as being anticipated by Vega (US 2002/0120554 A1) for the same reasons given in the last Office action and repeated below.

Regarding claims 80, 100, 116-124, Vega discloses a traffic control system (100) comprising:

an interface for communications through the public telephone system (Vega provides for a variety of communication modes including communication over the

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telephone network; paragraph 47) involving a user (potential purchaser uses a PC, PDA, cellular phone, or the like; paragraph 62) and a responding site (responding service provider) and for receiving inquiry data from a user at an active inquiring user terminal including identification data and type of subject matter data for communication relating to an area of interest (sign up wizard 130 and data input screen 132 collect buyer identification data, paragraph 77, and data defining the nature of services requested, paragraph 88);

memory storage to receive and store responder data (service provider data is stored in a service provider database 154; paragraphs 82-86); and

a processor (processor 204 identifies one or more buyer/service provider matches, paragraph 88, and provides associated video/audio files, paragraph 86).

Regarding claim 116, system 100 provides for presenting product information via a variety of text, video/audio communication modes (paragraphs 46, 52, 86, 187, 191).

Regarding claim 119, buyer information includes credit card information for billing purposes (paragraph 77).

Regarding claim 120, buyer request data can include maximum cost (paragraphs 88, 90).

Regarding claim 123, system 100 provides a variety of service applications, e.g. medical services, legal services, accounting services, financial services building services, construction services, architectural services, etc. (paragraphs 54, 82).

Regarding claim 124, system 100 allows for face-to-face contact with a service provider using audio and video technologies (paragraph 181).

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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5. Claims 63-72, 75-83, 85-86, 89-102, 104-111, 113-124 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-61 of U.S. Patent No. 7,848,496. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are anticipated by the claims in the patent.

6. Claims 63-72, 75-83, 85-86, 89-102, 104-111, 113-124 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-168 of U.S. Patent No. 7,839,984. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are anticipated by the claims in the patent.

7. Claims 63-72, 75-83, 85-86, 89-102, 104-111, 113-124 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-91 of U.S. Patent No. 7,835,509. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are anticipated by the claims in the patent.

8. Claims 63-72, 75-83, 85-86, 89-102, 104-111, 113-124 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-87 of U.S. Patent No. 7,835,508. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are anticipated by the claims in the patent.

9. Claims 63-72, 75-83, 85-86, 89-102, 104-111, 113-124 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over

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claims 1-195 of U.S. Patent No. 6,323,894. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are anticipated by the claims in the patent.

***Response to Arguments***

10. Applicant's arguments filed June 21, 2011 have been fully considered but they are not persuasive. Applicant argues that Vega does not constitute prior art to the claimed invention. However, claims 80, 100, 116, 122 still recite subject matter (e.g. claim 80, line 2, "mobile terminals") which finds its earliest support in parent application 10/323,222, filed December 18, 2002. Vega was filed on February 28, 2001 and qualifies as prior art to the claimed invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STELLA WOO whose telephone number is (571)272-7512. The examiner can normally be reached on Monday - Friday, 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stella L. Woo/

Primary Examiner, Art Unit 2614